

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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**RICHARD H. LIVINGSTON,**

**Plaintiff,**

**v.**

**5:16-CV-1371 (BKS/DEP)**

**MIKE FERRANTE, *et al.*,**

**Defendants.**

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**Appearances:**

Richard H. Livingston  
14-B-3634  
Clinton Correctional Facility  
P.O. Box 2002  
Dannemora, NY 12929  
Plaintiff, pro se

**Hon. Brenda K. Sannes, United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

On November 17, 2016, Plaintiff Richard Livingston commenced this civil rights action under 42 U.S.C. § 1983 against, *inter alia*, Onondaga County Assistant District Attorney Mike Ferrante. Dkt. No. 1. Plaintiff filed an Amended Complaint (Dkt. No. 14), following a Report, Recommendation and Order by Magistrate Judge David E. Peebles recommending that the Complaint be dismissed with leave to replead. Dkt. No. 9. The Amended Complaint was thereafter referred to Magistrate Judge Peebles for review. Dkt. No. 19. Magistrate Judge Peebles issued a Report and Recommendation on May 30, 2017 recommending that Plaintiff's Amended Complaint be dismissed in its entirety without leave to replead. Dkt. No. 20.

Magistrate Judge Peebles advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. Dkt. No. 20, pp. 14-15. No objections to the Report and Recommendation have been filed.

As no objections to the Report and Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report and Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228-29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report and Recommendation for clear error and found none, it is adopted in its entirety.

For these reasons, it is

**ORDERED** that the Report and Recommendation (Dkt. No. 20) is **ADOPTED** in its entirety; and it is further

**ORDERED** that Plaintiff's Amended Complaint (Dkt. No. 14) is **DISMISSED**, in its entirety, without leave to replead; and it is further

**ORDERED** that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

**Dated:** June 27, 2017

  
Brenda K. Sannes  
Brenda K. Sannes  
U.S. District Judge